

By: Whitmire

S.B. No. 1505

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the arrest and release on bail or other form of bond of
3 certain criminal defendants with a mental illness or with mental
4 retardation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subsection (a), Article 14.03, Code of Criminal
7 Procedure, is amended to read as follows:

8 (a) Any peace officer may arrest, without warrant:

9 (1) persons found in suspicious places and under
10 circumstances which reasonably show that such persons have been
11 guilty of some felony, violation of Title 9, Chapter 42, Penal Code,
12 breach of the peace, or offense under Section 49.02, Penal Code, or
13 threaten, or are about to commit some offense against the laws;

14 (2) persons who the peace officer has probable cause
15 to believe have committed an assault resulting in bodily injury to
16 another person and the peace officer has probable cause to believe
17 that there is danger of further bodily injury to that person;

18 (3) persons who the peace officer has probable cause
19 to believe have committed an offense defined by Section 25.07,
20 Penal Code (violation of Protective Order), or by Section 38.112,
21 Penal Code (violation of Protective Order issued on basis of sexual
22 assault), if the offense is not committed in the presence of the
23 peace officer;

24 (4) persons who the peace officer has probable cause

1 to believe have committed an offense involving family violence;

2 (5) persons who the peace officer has probable cause
3 to believe have prevented or interfered with an individual's
4 ability to place a telephone call in an emergency, as defined by
5 Section 42.062(d), Penal Code, if the offense is not committed in
6 the presence of the peace officer; ~~or~~

7 (6) a person who makes a statement to the peace officer
8 that would be admissible against the person under Article 38.21 and
9 establishes probable cause to believe that the person has committed
10 a felony; or

11 (7) a person who the peace officer has probable cause
12 to believe has violated a condition of release on bail or other form
13 of bond under Article 17.032 or 17.455.

14 SECTION 2. Article 17.032, Code of Criminal Procedure, is
15 amended by adding Subsection (b-1) and amending Subsections (c) and
16 (d) to read as follows:

17 (b-1) Unless good cause is shown otherwise, if the
18 requirements specified by Subsections (b)(2), (3), and (4) are
19 satisfied, the court before whom the criminal case is pending may
20 release on personal bond a defendant who is charged with or has been
21 previously convicted of a violent offense.

22 (c) The applicable court ~~[magistrate]~~, unless good cause is
23 shown for not requiring treatment, shall require as a condition of
24 release on personal bond under Subsection (b) or (b-1) ~~[this~~
25 ~~article]~~ that the defendant submit to outpatient or inpatient
26 mental health or mental retardation treatment as recommended by the
27 local mental health or mental retardation authority if the

1 defendant's:

2 (1) mental illness or mental retardation is chronic in
3 nature; or

4 (2) ability to function independently will continue to
5 deteriorate if the defendant is not treated.

6 (d) In addition to a condition of release imposed under
7 Subsection (c) [~~of this article~~], the applicable court [~~magistrate~~]
8 may require the defendant to comply with other conditions that are
9 reasonably necessary to protect the community.

10 SECTION 3. Chapter 17, Code of Criminal Procedure, is
11 amended by adding Article 17.455 to read as follows:

12 Art. 17.455. CONDITIONS REQUIRING SUBMISSION TO MENTAL
13 HEALTH OR MENTAL RETARDATION TREATMENT. (a) A magistrate may
14 require as a condition of a defendant's release on bond, other than
15 a release on personal bond, that the defendant submit to outpatient
16 or inpatient mental health or mental retardation treatment, as
17 recommended by the applicable local mental health or mental
18 retardation authority, if:

19 (1) the requirements of Articles 17.032(b)(2),
20 (b)(3), and (b)(4) are satisfied with respect to the defendant in
21 the same manner as if the defendant were being released on personal
22 bond; and

23 (2) the defendant's mental illness or mental
24 retardation:

25 (A) is chronic; or

26 (B) will continue to interfere with the
27 defendant's ability to function independently if the defendant does

1 not receive treatment.

2 (b) An order for treatment under this article may require
3 the defendant to receive services and to reside at a local mental
4 health facility or residential care facility, as applicable, during
5 the period of the defendant's release.

6 SECTION 4. The change in law made by this Act in amending
7 Article 17.032, Code of Criminal Procedure, and adding Article
8 17.455, Code of Criminal Procedure, applies only to a defendant's
9 release on bail or other form of bond on or after the effective date
10 of this Act. A defendant's release on bail or other form of bond
11 before the effective date of this Act is governed by the law in
12 effect when the defendant was released, and the former law is
13 continued in effect for that purpose.

14 SECTION 5. This Act takes effect September 1, 2009.